



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 15-009

AN ORDINANCE AMENDING SECTION 94.15.02(2) ENTITLED *DEVELOPMENT OF NONCONFORMING LOTS – RESIDENTIAL, RR AND AR ZONING DISTRICTS*

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stat. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's general zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, in administering this new Chapter 94, Village staff has found Sec. 94.15.02(2) does not adequately address the ability to improve existing flag lot parcels in the Village and Town of Weston ETZ area created prior to the new zoning ordinance going into effect; and

WHEREAS, Village Staff has requested an amendment Sec. 94.15.02(2) to address this issue; and

WHEREAS, the Plan Commission has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Village limits; and

WHEREAS, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Extraterritorial Zoning limits of the Town of Weston; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance, in compliance with Wis. Stat. § 62.23, and following such hearing the Board considered public comments and the recommendation of the Village Plan Commission and Joint Village and Town of Weston Extraterritorial Zoning Committee; and

WHEREAS, the Village Board finds the proposed amendment is reasonable, consistent with the Village Comprehensive Plan, and in the public interest;

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Section 94.15.02(2) of the Village Of Weston Ordinances entitled *Development of Non-conforming Lots – Residential, RR and AR Zoning Districts* is hereby amended to provide as follows:

Section 94.12.02: Nonconforming and Substandard Lots

(2) **Development of Nonconforming Lots—Residential, RR, and AR Zoning Districts.** Within such zoning districts as mapped on March 18, 2015, a lot of record lawfully created but not meeting one or more of the minimum lot width, lot area, or lot frontage requirements for the zoning district may not be utilized for a new permitted-by-right use in that district, except where such use does not include or require the erection of any building. Such lots shall become buildable only in one of the following circumstances:

(a) The lot is combined with all or part of an adjoining lot(s) to meet all the minimum width, area, and frontage requirements for the zoning district,

(b) The lot is rezoned to another zoning district in which all width, area, and frontage requirements are met, ~~or~~

(c) The owner of the lot obtains a variance from the Board of Appeals meeting the requirements and subject to the limitations of Section 94.16.11.

(e)(d) The lot is nonconforming only due to not meeting the associated “Minimum Public Street Frontage” in Figure 5.01(1), provided that minimum street frontage is no less than 33 feet.

SECTION 2: The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 15th day of June, 2015

WESTON VILLAGE BOARD

By: Barbara Ermeling
Barbara Ermeling, its President

Attest:

Sherry Weinkauff
Sherry Weinkauff, its Clerk

APPROVED: 6/15/15

PUBLISHED: 6/17/15

Section 94.15.02: Nonconforming and Substandard Lots

(1) **New Lots Meet New Lot Standards.** After March 18, 2015, no lot shall be created that does not meet the lot width, lot area, or lot frontage requirements of each zoning district, per Article 5.

(2) **Development of Nonconforming Lots—Residential, RR, and AR Zoning Districts.** Within such zoning districts as mapped on March 18, 2015, a lot of record lawfully created but not meeting one or more of the minimum lot width, lot area, or lot frontage requirements for the zoning district may not be utilized for a new permitted-by-right use in that district, except where such use does not include or require the erection of any building. Such lots shall become buildable only in one of the following circumstances:

(a) The lot is combined with all or part of an adjoining lot(s) to meet all the minimum width, area, and frontage requirements for the zoning district,

(b) The lot is rezoned to another zoning district in which all width, area, and frontage requirements are met, ~~or~~

(c) The owner of the lot obtains a variance from the Board of Appeals meeting the requirements and subject to the limitations of Section 94.16.11, ~~or~~

(d) The lot is ~~considered nonconforming~~ only due to not meeting the associated “Minimum Public Street Frontage,” as specified in Figure 5.01(1), provided that minimum street frontage is. ~~Only in this instance shall the “Minimum Public Street Frontage,” be no less than 33 feet.~~

(3) **Development of Nonconforming Lots—All Other Zoning Districts.** Within all other zoning districts as mapped on March 18, 2015, a lot of record lawfully created and not designated as an unbuildable outlot, but that does not meet one or more the minimum lot dimensional requirements for the zoning district, may be utilized for a new permitted-by-right use in that district, provided the measurements of such lot area, dimensions, and setbacks are equal to or greater than 67 percent of the minimum requirements of the district. Said lot shall not be more intensively developed unless combined with one or more abutting lots (or portions thereof) so as to create a lot that meets the requirements of this Chapter.

Notice of Newly Enacted Ordinance

Please take notice that the Village Board of Weston, Wisconsin enacted on June 15, 2015, Ordinance No. 15-009: An Ordinance Amending Section 94.15.02(2) Entitled *Development of Nonconforming Lots – Residential, RR and AR Zoning Districts*.

The full text of Ordinance No. 15-009 may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.

Published: 6/17/15

VILLAGE OF WESTON
REQUEST FOR CONSIDERATION

AGENDA ITEM DSCRPTN: ORDINANCE NO. 15-009 *AN ORDINANCE AMENDING SECTION 94.15.02(2) ENTITLED DEVELOPMENT OF NONCONFORMING LOTS – RESIDENTIAL, RR AND AR ZONING DISTRICTS.*

FOR CONSIDERATION AT: BOARD OF TRUSTEES; MONDAY, JUNE 15, 2015

LEGISLATION TYPE: ACKNOWLEDGE | MOTION | **ORDINANCE** | POLICY | RESOLUTION

RECOMMENDATION TO: Approve Ordinance No. 15-009 to amend Sec. 94.15.02(2) as proposed.

REPORT PREPARED BY: JENNIFER HIGGINS, DIRECTOR OF PLANNING AND DEVELOPMENT

BACKGROUND: Planning and Development Staff received a request from an individual off of Northwestern Avenue to add a new garage to a property he was planning to purchase. The lot is an existing flag lot and therefore does not meet the required Minimum Public Street Frontage that is now required by the new zoning ordinance of all lots. The lot is considered to be a non-conforming lot and the parcel could not be improved and a building permit issued without a variance.

There are a number of flag lots throughout the Village and Town of Weston that were created prior the current subdivision and zoning regulations and Village staff felt this issue could warrant a number of unnecessary variance requests in the future if provisions were not made in the new code to handle them now. New flag lots will not be allowed to be created in the Village or Town per the zoning ordinance so this ordinance will only address those properties already in existence.

Staff worked with Mark Roffers to draft the proposed amendment to Sec. 94.15.02(2) which will allow for staff to issue building permits to lots made non-conforming due to not meeting the Minimum Public Street Frontage, provided the minimum street frontage is no less than 33 feet. We feel this will allow the owners of flag lots the ability to improve their properties but only if they meet the 33 feet width criteria. It will also keep variance requests to a minimum.

The Plan Commission and Joint Town and Village Extraterritorial Zoning (ETZ) Committee held a hearing on this ordinance amendment on 6/8/15. No one spoke in opposition at the hearing.

The Plan Commission recommended approval of the ordinance amendment with a vote of 7-0. The ETZ Committee recommended approval of the ordinance amendment 5-0. Staff concurs and recommends approval of the ordinance as proposed.

FISCAL IMPACTS:

Budget Line Item: _____

Budget Line Item:
Budgeted Expenditure:
Budgeted Revenue:

STATUTORY REFERENCES:

Wisconsin Statue:
Administrative Code:
Municipal Code:
Judicial Ruling:

Sec. 94.15.02(2)

FURTHER REVIEW:

VILLAGE OF WESTON
REQUEST FOR CONSIDERATION

AGENDA ITEM DSCRPTN: ORDINANCE NO. 15-009 *AN ORDINANCE AMENDING SECTION 94.15.02(2)*
 ENTITLED DEVELOPMENT OF NONCONFORMING LOTS – RESIDENTIAL, RR AND
 AR ZONING DISTRICTS.

FOR CONSIDERATION AT: PLAN COMMISSION/EXTRATERRITORIAL ZONING (ETZ) COMMITTEE; MONDAY,
 JUNE 8, 2015

LEGISLATION TYPE: ACKNOWLEDGE | **MOTION** | ORDINANCE | POLICY | RESOLUTION

RECOMMENDATION TO: Recommendation to the Board of Trustees to adopt Ordinance No. 15-009 to
 amend Sec. 94.15.02(2) as proposed.

REPORT PREPARED BY: JENNIFER HIGGINS, DIRECTOR OF PLANNING AND DEVELOPMENT

BACKGROUND: Planning and Development Staff received a request from an individual off of
 Northwestern Avenue to add a new garage to a property he was planning to
 purchase. The lot is an existing flag lot and therefore does not meet the required
 Minimum Public Street Frontage that is now required by the new zoning
 ordinance of all lots. The lot is considered to be a non-conforming lot and the
 parcel could not be improved and a building permit issued without a variance.

There are a number of flag lots throughout the Village and Town of Weston that
were created prior the current subdivision and zoning regulations and Village
staff felt this issue could warrant a number of unnecessary variance requests in
the future if provisions were not made in the new code to handle them now.
New flag lots will not be allowed to be created in the Village or Town per the
zoning ordinance so this ordinance will only address those properties already in
existence.

Staff worked with Mark Roffers to draft the proposed amendment to Sec.
94.15.02(2) which will allow for staff to issue building permits to lots made non-
conforming due to not meeting the Minimum Public Street Frontage, provided
the minimum street frontage is no less than 33 feet. We feel this will allow the
owners of flag lots the ability to improve their properties but only if they meet
the 33 feet width criteria. It will also keep variance requests to a minimum.

Staff recommends approval of the amendments to Sec. 94.15.02(2) as proposed.

Please note, the Plan Commission and ETZ Committee should both take separate
action on the request.

FISCAL IMPACTS:

Budget Line Item: _____

Budget Line Item: _____

Budgeted Expenditure: _____

Budgeted Revenue:

STATUTORY REFERENCES:

Wisconsin Statue:

Administrative Code:

Municipal Code:

Sec. 94.15.02(2)

Judicial Ruling:

FURTHER REVIEW:

VILLAGE BOARD FOR FINAL APPROVALS ON 6/15/15